IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 65 OF 1997

1. Shri Mahesh Kantilal Bhayani )
adult, occ. Business carrying )
on business at 91, Sheriff )
Devi, St, Mumbau.3. )
)
2. Narmada Nylons Pvt. Ltd., a )
company registered under the )
Indian Companies Act, and )
having its registered office )
at Aurangabad, Maharashtra )
State. ) .....Petitioners.

V/s

1. State of Maharashtra )
2. Central Bureau of Investigation )
ACB having its office at Tanna )
House, Mumbai. ) ....Respondents.

---

Mr. A.P. Mundargi with Mr. P.C. Kansara for Petitioners.

Mr. U.V. Nikam, APP for State.

Mr. J.C. Satpute with Mr. H.V. Mehta for Respondent No.2.

---

CORAM: V.M. KANADE, J.

DATE : 15th December, 2006

ORAL JUDGMENT:

1. Heard the learned Counsel for Petitioners, learned APP for the State and the learned Counsel for Respondent No.2.

2. By this Criminal Revision Application, Petitioners are challenging the order passed by the Trial Court rejecting their application for discharge.

3. Brief facts are as under:-

4. Petitioner No.2 - Company was incorporated in the year 1979 and started its production activities in the factory situated at M.I.D.C. Chikhalthana, Aurangabad. Some time in 1983, Petitioners had placed order for import of HDPE plastic granuals from Brazil and Yugoslavia. In January 1984, Petitioners opened a Bank Account with Panjab & Sind Bank, Pedder Road Branch and they also applied for financial assistance from the said Bank. In the same year, the goods imported by Petitioners were not allowed to be removed by the Customs Authorities and they demanded higher amount of customs duty. A writ petition was filed by Petitioners in the High Court and they were allowed to remove the goods on furnishing a Bank Guarantee for the disputed amount. The Petitioners applied to the Punjab & Sind Bank, Pedder Road Branch for issuance of Bank Guarantee in favour of

Collector of Customs for release of the goods so imported and accordingly Bank Guarantees were issued by the Bank. Petitioners removed their goods after paying admitted amount and after furnishing Bank Guarantees as directed by this Court. Finally, the Petition filed by Petitioners was decided by this Court and Petitioners were directed to pay the disputed amount. When the Customs Authorities invoked the Bank Guarantees, the Bank found that Bank Guarantees were issued without following the procedure and no entries were made in the register and, therefore, the Bank Guarantees were not honoured. The investigation was made and CBI filed charge-sheet against Petitioner No.1 and against one of the Officers of the Bank. The application for discharge was filed by Petitioners in the Trial Court. The Trial Court, however, by a reasoned order rejected the said application for discharge by observing that no case for discharge has been made out. Being aggrieved by the said order, Petitioners have preferred this Criminal Revision Application.

5. It is submitted by the learned Counsel appearing on

behalf of Petitioners that Petitioners had paid margin money which is required to be paid for issuance of a Bank Guarantee and that Fixed Deposit Receipts issued by the Bank clearly showed that the said margin money has been deposited by Petitioners. He submitted that, therefore, no case was made out against Petitioners and that they were liable to discharged. He invited my attention to FIR as well as other record which is annexed to the Application.

6. It is not possible to accept the said submissions made on behalf of the learned Counsel for Petitioners. Serious allegations are made against Petitioners as well as against the Bank Official who had fraudulently issued Bank Guarantees. The Bank Guarantees were to be furnished on account of directions given by the High Court. Looking at the nature of the complaint and the material on record, in my view, this is not a fit case for discharging the present Petitioners and this question shall be decided by the Trial Court only after the evidence is adduced.

7. Accordingly, Criminal Revision Application is dismissed.

All contentions raised in this Application are kept open and the Trial Court shall decide all questions on merits and in accordance with law. With these observations, Criminal Revision Application is disposed of.

(V.M. KANADE, J.)